

**DECISION**



*Shipman*

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE:**B-209024

**DATE:** November 19, 1982

**MATTER OF:** R & M Construction Incorporated

**DIGEST:**

Protest concerning small business size status of bidder is by statute for conclusive determination by the Small Business Administration and is not subject to consideration by GAO.

R & M Construction Incorporated (R&M) protests award to The Law Construction Company (Law Construction) of a contract under invitation for bids (IFB) No. DACA56-82-B0006 issued by Altus Air Force Base.

We dismiss the protest.

R & M alleges that the IFB is a 100-percent small business set-aside but that Law Construction does not qualify as a small business. Law Construction is alleged to be a legal entity of the Law Company Incorporated of Wichita, Kansas, which is ranked as the 245th largest construction company in the United States with \$78.3 million dollars in contracts for 1981. Furthermore, Law Construction is listed as having over \$25 million dollars of work under contract and is larger than a \$12 million dollar per year company and, therefore, does not qualify as a small business under the IFB.

Under 15 U.S.C. § 637(b)(6) (1976), the Small Business Administration has conclusive authority to determine matters of small business size status for Federal procurement and sales purposes. See TGR-342 Construction Co., September 23, 1982, 82-2 CPD 266; Check-Mate Industries, Inc., June 11, 1982, 82-1 CPD 569.

*Harry R. Van Cleve*  
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